

**PLANNING BOARD
RESOLUTION NO. 2014-23**

A RESOLUTION OF THE CITY OF KEY WEST PLANNING BOARD GRANTING WITH CONDITIONS VARIANCES TO MINIMUM REAR SETBACK AND DETACHED HABITABLE SPACE ON PROPERTY LOCATED AT 1501 WHITE STREET (RE # 00059620-000000, AK # 1060097) IN THE SINGLE-FAMILY RESIDENTIAL (SF) ZONING DISTRICT PURSUANT TO SECTIONS 90-395, 122-238(6)A.3. AND 122-1078 OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST, FLORIDA

WHEREAS, the applicant proposes to renovate an existing accessory structure into a detached living space with a full bathroom for the existing non-transient residential dwelling unit on property located at 1501 White Street (RE # 00059620-000000, AK # 1060097); and

WHEREAS, the existing accessory structure is currently nonconforming to the minimum side yard and minimum rear yard setbacks within the Single-Family Residential (SF) Zoning District; and

WHEREAS, Section 122-238 of the Land Development Regulations (the “LDRs”) of the Code of Ordinances (the “Code”) of the City of Key West, Florida (the “City”) provides that the minimum side yard setback is five (5) feet and the minimum rear yard setback is 25 feet; and

WHEREAS, the proposed side yard setback is 8’-1 3/8” and the proposed rear yard setback is 4’-8 5/16”; and

WHEREAS, the applicant requests a variance to the minimum rear setback; and

WHEREAS, Code Section 122-1078 requires that all habitable space be accessible from the

interior of the exterior walls; and

WHEREAS, the applicant requests a variance to detached habitable space; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on April 17, 2014; and

WHEREAS, the Planning Board finds that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures or buildings in the same district; and


WHEREAS, the Planning Board finds that the special conditions do not result from the action or negligence of the applicant; and

WHEREAS, the Planning Board finds that granting the variances requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings or structures in the same zoning district; and

WHEREAS, the Planning Board finds that literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant; and

WHEREAS, the Planning Board finds that the variances granted are the minimum variances that will make possible the reasonable use of the land, building or structure; and

WHEREAS, the Planning Board finds that the granting of the variances will be in harmony with the general intent and purpose of the land development regulations and that such variances will not be injurious to the area involved or otherwise detrimental to the public interest or welfare; and

 Vice Chairman

 Planning Director

WHEREAS, the Planning Board finds that no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts are grounds for the issuance of the requested variances; and


WHEREAS, the Planning Board finds that the applicant has demonstrated a “good neighbor policy” by contacting or attempting to contact all noticed property owners who have objected to the variance application, and by addressing the objections expressed by these neighbors.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. An approval by Resolution of the Key West Planning Board for variances to allow the renovation of an existing accessory structure into detached living space with a full bathroom per the attached plans signed and sealed on March 12, 2014 by Richard J. Milelli, Professional Engineer, of Meridian Engineering LLC, on property located at 1501 White Street (RE # 00059620-000000, AK # 1060097) in the SF Zoning District pursuant to Sections 90-395, 122-238(6)a.3. and 122-1078 of the City of Key West Land Development Regulations with the following conditions:

1. The proposed development shall be consistent with the “area of work” indicated on plans signed and sealed on March 12, 2014 by Richard J. Milelli, Professional Engineer, of Meridian Engineering LLC.

 Vice Chairman

 Planning Director

2. No approval granted for an accessory unit, an additional principal dwelling unit or any transient use of the property.

3. No approval granted for any other work or improvements shown on the plans.

4. No kitchen, no wet bar and no 220-volt electric service shall be allowed in the proposed detached habitable space.

Conditions required to be completed prior to a Certificate of Occupancy and/or final inspection:

5. The existing wood fence separating the main house from the detached habitable space shall be removed.

6. Unless and until the owner received City approval for an accessory unit or an additional principal dwelling unit, a deed restriction in a form acceptable to the city attorney shall be placed on the property such that the property as a whole shall be used and occupied as a single-family residence. Entrances to all bedrooms and the detached habitable space shall share the same key or means of controlling access so that the bedrooms are not divisible into separately rentable units. The owner shall bear any expense of recording the deed restriction.

7. The owner shall obtain and maintain a Conditional Approval Permit, pursuant to City Code Chapter 18, Article XII, Division 1. The City Code Compliance Department shall inspect the property on an annual basis upon reasonable notice to determine compliance with the above conditions.

Section 3. It is a condition of these variances that full, complete and final application for

all conditions of this approval for any use and occupancy for which these variances are wholly or partly necessary, shall be submitted in their entirety within two years after the date hereof; and further, that no application shall be made after expiration of the two-year period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances to the property or its underlying zoning has occurred.

Section 4. The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to these variances in accordance with the terms of the approval as described in Section 3 hereof, shall immediately operate to terminate these variances, which variances shall be of no force or effect.

Section 5. These variances do not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 6. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 7. This Resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Economic Opportunity. Pursuant to Chapter 73C-44, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period, the DEO can appeal the permit or development order to the Florida Land and

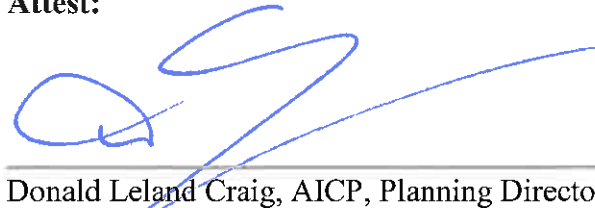
Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held this 17th day of April, 2014.

Authenticated by the Chairman of the Planning Board and the Planning Director;

 4/21/14
Sam Holland, Jr., Planning Board Vice Chairman Date

Attest:

 4-21-14
Donald Leland Craig, AICP, Planning Director Date

Filed with the Clerk:

 4-21-14
Cheryl Smith, City Clerk Date

